THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.15554 of 2006

Dated:27.07.2006

Between:

K.Ashok Kumar and another.

…Petitioners

and

The District Collector, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.15554 of 2006

ORDER:

The two petitioners filed the instant writ petition aggrieved by the order dated 26.06.2006 in case No.L/1580/2000 passed by the second respondent herein under Section 10 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act'). By impugned order, the second respondent directed to issue Occupancy Rights Certificate (ORC) to the extent of 1/5th share out of 5 shares to the successors of late Veeraiah @ Eraiah (respondents 6, 7 and 8 herein), and successors of late Mallaiah (respondents 4 and 5 herein). The land in respect of which ORC was directed to be issued is comprised in Survey Nos.84, 134 and 233 situated at Kokapet Village, Rajendranagar Mandal, Ranga Reddy District. The petitioners allege that the first petitioner purchased the land admeasuring Acs.4.11 guntas in Survey No.84 under a registered sale deed dated 16.02.2004 and the second petitioner allegedly purchased the land admeasuring Acs.3.39 guntas in Survey No.84 under a registered sale deed dated 29.05.2005, and also obtained the necessary mutation and title deeds from the third respondent herein. They allegedly obtained the survey map for the lands after the Mandal Revenue Surveyor conducted survey in April 2006. They obtained permission from the Panchayat Secretary for construction of compound wall. At that stage,

they statedly came to know about the impugned order passed by the second respondent under Section 10 read with Section 4(1) of the Act. The petitioners, therefore, obtained the certified copies of the order of the second respondent on 19.07.2006 and filed the present Writ Petition. They contend that i) the second respondent did not conduct any enquiry; ii) the second respondent did not issue notices to the parties interested and passed orders in violation of the principles of natural justice; and iii) respondents 4 to 8 are not entitled for ORC under the Act insofar as the land in Survey No.84 is concerned.

Learned Counsel for the petitioners vehemently contends that when an application is submitted to the second respondent by a person seeking ORC under the Act, in any capacity, it is incumbent on the part of the Inams Tribunal to conduct detailed enquiry after giving notices to all the persons, so that they can file objections. Learned Counsel would submit that the second respondent has not at all conducted any enquiry, and therefore, it is unsustainable.

Learned Assistant Government Pleader opposed the Writ Petition placing reliance on Section 24 of the Act, which provides for an appeal against the order passed by the second respondent to the Joint Collector. This is not denied. Therefore, this Court is of the considered opinion that the petitioner should be relegated to the appellate authority in the first instance, so that all factual aspects can be decided by the appellate authority by himself or if necessary by the original authority.

Therefore, without expressing any opinion with regard to the merits of the case or right, title and interest of the petitioners or the right, title and interest of respondents 4 to 8, this Writ Petition is disposed of giving liberty to the petitioners to file an appeal before the Joint Collector, Ranga Reddy District, within a period of one week from the date of receipt of a copy of this order. As and when such appeal is filed, the Joint Collector shall entertain the same, issue notices to all the contesting respondents and pass appropriate orders in accordance with law, within a period of three months from the date of filing of the appeal. No costs.

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(V.V.S.RAO, J)

27.07.2006

Note: Issue C.C in one week.

B/o.

vs